

Response to Office Action  
SN 10/772,738  
Customer No. 33354

### **AMENDMENTS TO THE DRAWINGS**

The attached sheet of drawings includes changes to Fig. 1. This sheet, which includes Fig. 1 replaces the original drawing sheet showing Fig. 1. In Fig. 1, indicia have been placed within the major boxes per the Examiner's request. Additionally, the circle previously denoted as "14" is now labeled "15." Finally, Applicants have deleted numeral 27 from the drawings.

The Applicants are also submitting Fig. 2 in formal form per the Examiner's request.

Attachment: Replacement Sheets 1 and 2 showing amended figures 1 and 2.

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## REMARKS

### A. Status of the Claims

Claims 1-18 are pending. Claim 18 has been indicated to be allowable as written. Claim 6 has been objected to by the Examiner who has noted that claim 6 would be allowable if re-written in independent form. Claims 1-5 and 7-17 have been rejected to based on prior art. Claims 1, 3, 6-10, 15, 17, and 18 have been amended as described herein.

### B. Allowable Subject Matter

Applicants thank the Examiner for indicating that claim 18 is allowable as written. Applicants have amended claim 18 simply to correct a minor typographical error and believe that this amendment will have not impact on the allowability of claim 18.

### C. Amendments to the Drawings

Applicants have amended the drawings and are submitting Fig. 2 in formal form as requested by the Examiner. Applicants have also amended the drawings as discussed herein to include a numeral 15 to address the Examiner's objection to the specification. Fig. 2 has been amended to delete the numeral 27 since it was not referenced in the specification.

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#### **D. Amendments to the Specification**

Applicants submit replacement paragraphs 0001 and 0002 to place the continuation data of the application within the first paragraph and to identify the patent. Replacement paragraph 0014 is also submitted and has been amended to delete the application's reference to numeral 10 because this numeral was not in the figures.

Finally, replacement paragraphs 0014 and 0024 change the designation of numeral 13 to "laser control 13" as opposed to "control means" as previously used. These amendments are made to improve the readability of the specification and to clarify the invention, and not to overcome any objection or rejection related to patentability

#### **E. § 112 Rejections**

The Examiner has rejected claims 7-10 and 15 as failing to provide proper antecedent basis for the claimed elements of "the optical element" or "the scanner control." Applicants thank the Examiner for his detailed reading of the claims and have either amended the rejected claims, their respective base claims, or changed their dependency to provide proper antecedent basis for all claimed elements. Claims 3-10 have also been amended to more distinctly describe what Applicants regard as their invention and to ensure that all the claims have proper antecedent basis. Accordingly, Applicants respectfully submit that the claims are in form for issuance, and request that the Examiner withdraw the rejection.

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#### **F. § 102 Rejections Citing Angeley**

The Examiner has rejected claims 1, 3, 5, 7-10, 12, 16 and 17 as being anticipated by U.S. Published Patent Application No. 2002/0138119 to Angeley, et al. (Angeley). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers, Inc. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Angeley appears to disclose a scanning laser handpiece which requires two separate devices to move the laser beam in two separate directions. For example, in Fig. 1, two mirrors are used and in Figs. 10 and 12, an optical arrangement in combination with a light guide is used to move the laser beam in two separate directions. Angeley fails to disclose a scanning head with a single deflective device which can move light in two separate directions.

In contrast, Applicants' laser uses a single device with a deflective surface referred to as the "optical element" in the specification and specifically, the prism in the preferred embodiment, move the laser beam in two directions. Specifically, the laser beam produced by Applicants' invention can either be moved left to right when the prism is rotated by the cam member or up and down when the prism is moved by the drive arm. Claims 1 and 17 have been amended to reflect this difference by including limitations directed to a scanning head with a single optical element to deflect the laser beam in two directions. Claim 17 has also been amended to include a limitation that the optical element

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is controlled by a cam and a hinged arm. Therefore, amended claims 1 and 17 are not anticipated by Angeley and the Examiner is respectfully requested to withdraw this rejection. The Examiner is also requested to withdraw his rejection of claims 3, 5, 7-10, 12, and 16 as these claims all depend from base claims believed to be patentable over Angeley.

#### **F. § 102 Rejections Citing Miller**

The Examiner also rejected claims 1, 11, and 13-16 as being anticipated by U.S. patent 5,879,376 to Miller (Miller). Again, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers, Inc.*, 2 USPQ2d at 1053.

Miller appears to disclose a method and device that uses lasers which remove vascular and pigmented lesions from a human's skin. The patent also discloses that a commercial scanner can be used to facilitate treatment of a larger area. But, Miller does not disclose either expressly or inherently the use of a scanning head with a single deflective device to move the laser beam in two directions.

As noted above, claim 1 has been amended to reflect this difference and the Examiner is requested to withdraw this rejection. The Examiner is also requested to withdraw the rejection of claims 11 and 13-16 since these claims all depend from claim 1 and are therefore believed to be patentable over Miller.

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#### H. § 103 Rejections Citing Angeley

The Examiner has rejected claims 2 and 4 as being obvious in light of Angeley. A claim is *prima facie* obvious only if the prior art reference (or references when combined) teach or suggest all the claim limitations. *MPEP* §2143.

As discussed above, claims 2 and 4 depend from amended claim 1 which is believed to be patentable over Angeley. Therefore, Applicants believe that claims 2 and 4 are non-obvious in light of Angeley and request that this rejection be withdrawn.

#### I. Objected Claim 6

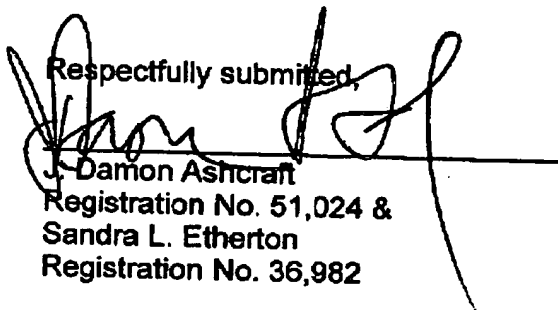
The Examiner has objected to claim 6 as being dependent upon a rejected base claim (claim 1) and indicated that claim 6 would be allowable if re-written in independent form. Applicants thank the Examiner for his suggestion. But, Applicants have amended claim 1 and now believe that claim 1 is allowable. Therefore, the Examiner is requested to withdraw his objection to claim 6.

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### CONCLUSION

Applicants respectfully submit that all objections and rejections have been traversed, and that the application is in form for issuance. If the Examiner has any suggestions or comments that would place the application in even better form for allowance, he is invited to call Applicants' representative, Damon Ashcraft at 602-681-3331.

Respectfully submitted,



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